

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JUSTYN PEREZ-COLON,)	
Plaintiff,)	
)	C.A. No. 22-325 Erie
v.)	
)	District Judge Susan Paradise Baxter
CAPITAL ONE,)	Magistrate Judge Richard A. Lanzillo
Defendant.)	

MEMORANDUM ORDER

Plaintiff Justyn Perez-Colon, an inmate incarcerated at the Federal Correctional Institution at McKean in Bradford, Pennsylvania, initiated this action in the Court of Common Pleas of Erie County, Pennsylvania, by filing a *pro se* complaint against Defendant Capital One. Defendant subsequently removed the action to this Court by Notice of Removal dated October 20, 2022. [ECF No. 1]. Plaintiff's complaint alleges that Defendant violated his rights under the Fair Credit Reporting Act, 15 U.S.C. § 1681 ("FCRA"), and the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 ("FDCPA"), based on Defendant's allegedly fraudulent reporting of an outstanding balance Plaintiff owes to Defendant. This matter was referred to United States Magistrate Judge Richard A. Lanzillo for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

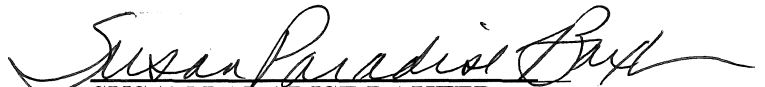
On October 25, 2022, Defendant filed a motion to dismiss for failure to state a claim [ECF No. 3]. The motion was fully briefed by the parties. On May 16, 2023, Judge Lanzillo issued a Magistrate Judge's Report and Recommendation ("R&R") recommending that

Defendant's motion be granted, that Plaintiff's FDCPA claim be dismissed with prejudice, and that Plaintiff's FCRA claim be dismissed, without prejudice to Plaintiff's right to amend his complaint within twenty days to correct the deficiencies noted in the R&R [ECF No. 15]. Objections to the R&R were due by June 2, 2023; however, no objections have been filed.

After *de novo* review of the complaint and documents in this case, together with the report and recommendation, the following order is entered:

AND NOW, this 30th day of June, 2023;

IT IS HEREBY ORDERED that Defendant's motion to dismiss [ECF No. 3] is GRANTED insofar as Plaintiff's FDCPA claim against Defendant is DISMISSED with prejudice, but Plaintiff's FCRA claim against Defendant is DISMISSED, without prejudice to Plaintiff's right to file an amended complaint to correct the deficiencies noted in the R&R within twenty (20) days of the date of this Order. In the event Plaintiff fails to file an appropriate amended complaint within such time, the Court's dismissal of all claims against Defendant will be converted to a dismissal with prejudice without further notice. The report and recommendation of Magistrate Judge Lanzillo, issued May 16, 2023 [ECF No. 15], is adopted as the opinion of the court.


SUSAN PARADISE BAXTER
United States District Judge

cc: The Honorable Richard A. Lanzillo
U.S. Magistrate Judge

all parties of record